George Mattathil
06-10-05

June 10, 2005

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Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Dear Ms. Hortch,

Subject: NOTICE OF INQUIRY, WC Docket No. 03-251

This is in response to the topics in the NOI -

1. FCC Authority

The authority FCC currently has is inadequate to regulate and manage the emergence of an efficient information economy. The authority that FCC currently can exercise is based on technologies that date back to the 1920s, such as radio, telephone, and wireless communications. However, we are now in the midst of large-scale assimilation and deployment of several key new technologies and infrastructure improvements from the past two decades. Effective regulatory management for economic efficiency requires unified authority that is current lacking due to the ad-hoc structure of current FCC regulatory authority.

At present the information network sector regulatory authority is fragmented along historical technology-specific regulatory needs - spectrum allocation, wireline and wireless. Unlike in the past -- when there was no major preexisting infrastructure factors to consider -- there is current need to adequately manage the convergence of several technologies, with varying degrees of maturity and assimilation. Unless the current technology adoption in progress is managed for maximizing the infrastructure capabilities, the outcomes will be determined by the current structural constraints of market and capital.

Current regulatory deficiencies in the network sector may be appreciated by comparing with another core sector in the economy -- transportation. Networks perform the function of *transporting* information. In the same way efficient transportation infrastructure for goods and people provides for an efficient brick-and-mortar economy, an efficient network infrastructure will provide for an efficient information economy. The gaps in the regulatory framework for networks are immediately apparent when the authority for the FCC is compared with that of for transportation.

Title 49 (Transportation) vests unified authority for promoting transportation infrastructure with the Office of the Secretary of Transportation. But a similar framework is lacking with respect to network infrastructure, even though information networks have become a critical infrastructure. A unified authority that matches the transportation authority would read: (1) Leadership in formulating and executing well-balanced national and international information network objectives, policies, and programs; (2) Stimulating and promoting research and development in all modes and types of information network, with special emphasis on network security; (4) Encouraging maximum private development of network services.

Title 47 (Telecommunications), in contrast, is technology specific and does not provide for a unified and uniform regulatory framework for all network services. One way to upgrade network regulations (Title 47) would be by drawing appropriate parallels from the transportation (Title 49) regulations. One benefit of this approach is having tangible reference points with respect to transportation, but the corresponding aspects may be intangible for networks. Being able to draw parallels could be helpful for developing the regulatory framework.

2. Bundling of services

ILECs are promoting different versions of bundled services. The primary reason is competitive pressures for customer retention because of several reasons. ILECs are under revenue decline for voice services due to wireless services, and the potential of VoIP services. In addition, the strategy cable providers are implementing is offering voice services for revenue gain. The net outcome of this dynamics is both cable providers and ILECs are implementing revenue-focused “triple-play” strategies, without adequately factoring their core strengths.

The consumer impact is lower level of choices for network services. But consumers benefit from lower total cost of services. However, the services consumers are subscribing may not be the services they would opt if the price advantages were not present. The consumers may also not have need for the services included in the bundles, but choosing the services a-la-carte cost more than the bundles. For example,

1) Call management feature bundles for call-waiting, caller-id, etc.
2) Separate long distance bundle plans for wireline and wireless -- even though it is the same service from different access services, and provided by the same provider.
3) Cable channel bundles, which maximize provider revenue -- as opposed to optimum consumer pricing.

The consumer choices then drive further investments by the service providers towards the choices made by the consumers, becoming either a virtuous or a viscous cycle.

Policies that take into account future network infrastructure and service needs, including incentives for their development are required for redirecting the priorities based primarily focused on revenue and other financial objectives in the telecom/network sector.

Bundling will naturally lead to decreased intramodal competition. But it is likely to increase intermodal competition, at least in the short-term. A critical ingredient for an efficient telecom/network sector is having sufficient marketshare for the businesses for sustainable operations, to maintain investment requirements in the market.

Network/telecom carrier business is capital intensive, with established market structures. These barriers-to-entry prevent new entrants establishing market presence, even for new capabilities -- bundling has the potential to enhance the barriers.

Respectfully submitted,

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